

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201808479	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/02/2018 11:48 AM	Location of Incident: § 87(2)(b)	Precinct: 90	18 Mo. SOL 8/2/2019	EO SOL 8/2/2019	
Date/Time CV Reported Fri, 10/12/2018 3:12 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 10/12/2018 3:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			090 PCT
2. POM James Klimkoski	03236	924031	090 PCT
3. POM Anthony Bisram	10447	960253	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Alvin Law	01574	927064	090 PCT
2. POF Enerolisa Marte	05410	961917	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM James Klimkoski	Abuse: Police Officer James Klimkoski entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM James Klimkoski	Abuse: Police Officer James Klimkoski refused to provide his name to § 87(2)(b)	§ 87(2)(b)
C.POM Anthony Bisram	Abuse: Police Officer Anthony Bisram refused to provide his name to § 87(2)(b)	§ 87(2)(b)
D.POM James Klimkoski	Discourtesy: Police Officer James Klimkoski acted discourteously toward § 87(2)(b)	§ 87(2)(b)
E. Officers	Abuse: Officers forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

## Case Summary

On October 12, 2018, § 87(2)(b) filed this complaint at the CCRB when he appeared for his interview for a separate case, case 201800879.

On February 2, 2018, at approximately 11:48 a.m., Police Officer James Klimkoski, Police Officer Anthony Bisram, Sergeant Alvin Law, and Police Officer Enerolisa Marte of the 90<sup>th</sup> Precinct responded to § 87(2)(b)'s apartment at § 87(2)(b) in Brooklyn after § 87(2)(b)'s health insurance company reported that he had threatened to burn down his building. Police Officer Klimkoski entered § 87(2)(b)'s apartment without his consent (**Allegation A: Abuse of Authority – Entry of Premises**, § 87(2)(f) § 87(2)(b)) allegedly asked Police Officer Klimkoski for his name, and Police Officer Klimkoski allegedly said his name was “Coffey” (**Allegation B: Abuse of Authority – Refusal to Provide Name**, § 87(2)(g) § 87(2)(b)) allegedly asked Police Officer Bisram for his name, and Police Officer Bisram allegedly did not respond (**Allegation C: Abuse of Authority – Refusal to Provide Name**, § 87(2)(g) § 87(2)(b)) allegedly asked Police Officer Bisram for his name a second time, and in response, Police Officer Bisram allegedly stated that Police Officer Klimkoski’s name was “Coffey” (**within Allegation C**). § 87(2)(b) asked for his medication, and Police Officer Klimkoski allegedly picked up a pill bottle, shook it in front of § 87(2)(b)'s face, and said, “You want this? You want this? Well too bad, you can’t have it” (**Allegation D: Discourtesy – Action**, § 87(2)(g) § 87(2)(b)) was transported to § 87(2)(b) via ambulance (**Allegation E: Abuse of Authority: Forcible Removal to Hospital**, § 87(2)(g) § 87(2)(b)) was not arrested or summonsed.

No video footage of this incident was found.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer James Klimkoski entered § 87(2)(b) in Brooklyn.**  
**Allegation (E) Abuse of Authority: Officers forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) was interviewed at the CCRB on October 12, 2018, and he provided a follow-up telephone statement on October 19, 2018 (Board Review 01). Police Officer Klimkoski was interviewed on November 28, 2018. Police Officer Bisram was interviewed on January 4, 2019. Sergeant Law was interviewed on March 27, 2019.

§ 87(2)(b) stated that he was on the phone with his insurance company and threatened to fire his insurance advocate. He stated that he spoke loudly and that he believed neighbors could hear him. While he was still on the phone with his insurance company, officers knocked on his door, and § 87(2)(b) opened the door. Soon after the door was opened, Police Officer Klimkoski walked into § 87(2)(b)'s apartment, and § 87(2)(b) walked backwards away from the door. The officers did not ask § 87(2)(b) for his permission to enter the apartment, and § 87(2)(b) did not invite them into the apartment. § 87(2)(b) stated that Police Officer Klimkoski was the first officer to enter the apartment. Police Officer Klimkoski told § 87(2)(b) that he had threatened somebody. The officers removed § 87(2)(b) from his

apartment to an ambulance, which transported him to § 87(2)(b). § 87(2)(b) stated that he was discharged from the hospital § 87(2)(b).

Police Officer Klimkoski stated that he and Police Officer Bisram were told over the radio to call the 90<sup>th</sup> Precinct stationhouse desk. Upon calling the stationhouse on his cell phone, Police Officer Klimkoski learned that a psychiatric crisis center reported that § 87(2)(b) stated over the phone that he was going to set fire to his building. Police Officer Klimkoski stated that the desk officer provided him with § 87(2)(b)'s address and apartment number. Police Officer Klimkoski was familiar with § 87(2)(b)'s address because he was there on § 87(2)(b) for an incident in which § 87(2)(b) made suicidal and homicidal threats § 87(2)(b). After § 87(2)(b) opened the door, Police Officer Klimkoski waded into the apartment because he believed § 87(2)(b) was an emotionally disturbed person. Police Officer Klimkoski did not request § 87(2)(b)'s consent to enter, and he did not recall whether § 87(2)(b) invited him into the apartment. Police Officer Klimkoski believed § 87(2)(b) needed to be taken to a hospital because he was agitated and nervous, walked around his apartment, and repeatedly stood up after being told to remain seated. Approximately one hour after Police Officer Klimkoski arrived at § 87(2)(b)'s apartment, the EMTs arrived and agreed with his view that § 87(2)(b) needed to be taken to a hospital.

Police Officer Bisram did not recall whether anything § 87(2)(b) said or did led him to believe that § 87(2)(b) needed to be taken to a hospital. Police Officer Bisram did not recall who made the decision to take § 87(2)(b) to the hospital, or whether it was the EMTs or the officers. He did not recall whether § 87(2)(b) was taken to the hospital for any reason other than threatening to burn down the building.

Sergeant Law arrived at the scene after Police Officer Klimkoski and Police Officer Bisram had entered the apartment. He stated that § 87(2)(b) was unable to speak coherently and jumped from subject to subject. The EMTs determined that § 87(2)(b) needed to be taken to a hospital, but they did not explain to Sergeant Law how they made this assessment. Sergeant Law was not present with § 87(2)(b) during his conversation with the EMTs.

According to EVENT § 87(2)(b) (Board Review 02), at 11:48 a.m., Police Officer Klimkoski and Police Officer Bisram received a stationhouse assignment for an emotionally disturbed person at § 87(2)(b)'s residence. At 12:09 p.m., an ambulance was automatically dispatched to the location.

According to an AIDED report prepared by Police Officer Klimkoski (Board Review 03), § 87(2)(b) stated to a psychiatric crisis center that he wanted to set fire to his building. The AIDED report indicates that § 87(2)(b) had a prior history as an emotionally-disturbed person.

According to the Ambulance Call Report (Privileged Document 01), § 87(2)(b)'s health insurance company reported that § 87(2)(b) made suicidal threats while speaking to an insurance agent, and § 87(2)(b) stated that he had a history of post-traumatic stress disorder and bipolar disorder. The EMT's arrived at 12:47 p.m., and it was their impression was that § 87(2)(b) suffered from a behavioral disorder.

§ 87(2)(b) s medical records from § 87(2)(b) (Privileged Document 02 and 03) state that § 87(2)(b) was diagnosed with a moderate manic episode without psychotic symptoms. § 87(2)(b) was irritable, restless, paranoid, combative, and unpredictable, and was thus medicated for safety reasons.

According to People v. Dallas, 8 N.Y.3d 890 (2007), officers may enter a private residence without a warrant if they have “reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property,” if their search is not “primarily motivated by the intent to arrest or seize evidence,” and if there is “some reason, approximating probable cause, to associate the emergency with the area or place being searched.” (Board Review 04) However, in Brigham City v. Stuart, 547 U.S. 398 (2006), the Supreme Court of the United States ruled that the second prong of the test cited in People v. Dallas regarding the officers’ motivation is “irrelevant” when assessing the emergency doctrine (Board Review 04).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as “a person who appears to be mentally ill or emotionally deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others,” and states that emotionally disturbed persons may be taken into protective custody for the purpose of receiving psychiatric treatment. Patrol Guide Procedure 216-01 states that once a person has been placed in the care of medical personnel, officers “shall cooperate with ambulance/hospital personnel in every reasonable manner.” (Board Review 04)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Police Officer James Klimkoski refused to provide his name to § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Anthony Bisram refused to provide his name to § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer James Klimkoski acted discourteously toward § 87(2)(b)**

§ 87(2)(b) stated that after the officers entered his apartment, he asked Police Officer Klimkoski and Police Officer Bisram for their names. Police Officer Klimkoski allegedly stated that his name was “Coffey,” and Police Officer Bisram allegedly did not respond. § 87(2)(b) asked Police Office Bisram for his name again, and in response, Police Officer Bisram allegedly stated that Police Officer Klimkoski’s name was “Coffey.” § 87(2)(b) did not believe this was Police Officer Klimkoski’s real name because he knew Lt. Thomas Coffey, formerly of the 90<sup>th</sup> Precinct and now retired. § 87(2)(b) asked if he could bring his medication with him, and Police Officer Klimkoski allegedly picked up a bottle of medication, shook it in front of § 87(2)(b)s face, and said, “You want this? You want this? Well too bad, you can’t have it.”

Police Officer Klimkoski, Police Officer Bisram’s, and Sgt. Law’s statements were generally consistent. They did not recall whether § 87(2)(b) requested Police Officer Klmkoski’s or Police Officer Bisram’s name, and they denied that Police Officer Klimkoski and Police Officer Bisram refused to provide their names to § 87(2)(b) or that Police Officer Klimkoski provided his name as “Coffey.” Police Officer Klimkoski denied shaking § 87(2)(b)s medication and saying, “You want this? Well too bad, you can’t having it,” and Police Officer Bisram and Sgt. Law did not recall Police Officer Klimkoski doing this.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to seven other CCRB complaints (Board Review 05).
  - § 87(2)(b)
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- Police Officer James Klimkoski has been a member of service for 19 years and has been a subject in five other CCRB complaints and 11 other allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Anthony Bisram has been a member of service for three years and has been a subject in two other CCRB complaints and three other allegations, none of which were

substantiated. § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of February 21, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 02

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date